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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,398	07/05/2001	Abrar Tirmizi	257/210	3510
7590	06/15/2004		EXAMINER	
Thomas J. Brindisi 20 28th Place, #B Venice,, CA 90291			GREENE JR, DANIEL LAWSON	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/899,398	TIRMIZI, ABRAR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Daniel L Greene Jr.	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 17-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ .   | 6) <input type="checkbox"/> Other: _____ .                                  |

***Response to Arguments***

1. Applicant's arguments filed 12/26/2002 have been fully considered but they are not persuasive. Subsequently, the 102 and 103 rejections of paper No. 2 are herein incorporated by reference.
2. In response to applicant's argument that claim 1 has been amended to limit the claim to an automotive pyrotechnic initiator, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).
3. In response to applicant's argument that Marshall is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, even though the Marshall patent is directed to a different field (detonators), it is still capable of being used within an automotive environment. Additionally, detonators and initiators are maintained by the office within the same classification 102, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, that similarities exist between detonators and initiators such that both arts

benefit from the knowledge of the other. Additionally, the courts have held that a change in size/proportion is not patentably distinct when the only difference between prior art and the inventive concept is size. See MPEP § 2144.04 IV A.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). As previously stated above, since initiators and detonators share commonalities, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an automotive pyrotechnic initiator to include the teachings of Marshall to obtain the benefits thereof (i.e. miniaturization, protection, etc.)

5. With respect to claim 17, the same arguments set forth above concerning claim 1 apply to claim 17 and are incorporated here by reference.

6. With respect to the argument concerning Marshall not needing an electrical connector, Marshall discloses in column 6 lines 43-57 that the invention can be controlled with either electric or non-electric initiation signal means further stating that "...an electrical initiation signal line may be connected to input leads 56..." See Figs. 4, 5A, and 5B. Additionally, the transducer referenced in the argument converts pressure from a triggering shock wave to an electrical impulse which then triggers the detonator.

There must be some method for this electrical impulse to be connected to and subsequently travel from the transducer. Therefore it is clear that Marshall does have a need for an electrical connector.

***Election/Restrictions***

7. The Office acknowledges the receipt of the Applicant's restriction election, filed 10/31/2003. Applicant elects Group I, claims 1-10 and 17-19 without traverse. Claims 1-10 and 17-19 are pending. Claims 11-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. This restriction is made FINAL. An action on the merits of claims 1-10 and 17-19 follows.

***Drawings***

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "engagement feature" specified in claim 19 must be shown or the feature canceled from the claim. No new matter should be entered.

9. The drawings received on 12/26/2002 are objected to as they include new matter neither indicated in the drawings received on 7/5/2001 nor described within the specification. Figs. 1,2 and 4 of the drawings received on 12/26/2002 have added a protrusion separating the initiator electrical interface 60 that is absent from Figures

1,2,4,6,7 and 9 of the drawings received on 7/5/2002. It is noted that this addition is neither labeled on the drawings nor spoken to within the body of the specification.

10. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

11. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The “engagement feature” described in claim 19 is neither labeled on any of the figures nor described within the specification.

***Claim Rejections - 35 USC § 102***

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. **Claims 17 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Marshall in view of Cunningham as described above.** Cunningham clearly illustrates claim 19, enlarged initiator opening (178) and engagement feature as broadly defined in column 11 lines 14-19, wherein it discloses that the enlarged initiator opening is slightly smaller to allow for a snug fit of the projection, thereby acting as an engagement feature formed to snugly hold the initiator body in place. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a

reference patent cannot be disregarded in determining the patentability of claims. See *In re Mraz*, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972)

***Claim Rejections - 35 USC § 103***

14. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall.** It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the characteristics (i.e. axial length, overall size, etc.) of the initiator to achieve an optimum result, *In re Aller*, 105 USPQ 233 (CCPA 1955) and *In re Reese*, 129 USPQ 402 (CCPA 1961).

15. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall in view of Cunningham.** It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the characteristics (i.e. axial length, overall size, etc.) of the initiator to achieve an optimum result, *In re Aller*, 105 USPQ 233 (CCPA 1955) and *In re Reese*, 129 USPQ 402 (CCPA 1961).

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L Greene Jr. whose telephone number is (703) 605-1210. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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